

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

JOSEPH SECREST,	)	
	)	
Petitioner	)	
	)	
v.	)	CAUSE NO. 3:04-CV-695 RM
	)	(arising from 3:98-CR-00036(01)RM)
UNITED STATES OF AMERICA,	)	
	)	
Respondent	)	

OPINION AND ORDER

The court denied Joseph Secrest's habeas corpus petition under 28 U.S.C. § 2255, and then denied his application for a certificate of appealability as to that ruling. He appealed those decisions. Mr. Secrest now files a motion requesting that transcripts of his trial proceedings be provided for him at public expense, and a separate motion for leave to proceed on his appeal in forma pauperis. An appeal may not be taken in forma pauperis if the district court certifies in writing that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3). In order to find the appeal is in good faith, the "court need only find that a reasonable person could suppose that the appeal has some merit." Walker v. O'Brien, 216 F.3d 626, 632 (7th Cir. 2000).

Mr. Secrest's habeas petition and appeal are based entirely on rules of law that, for reasons explained in this court's previous orders [docket nos. 76 and 80], have no application to his case. No reasonable person could suppose his appeal has some merit, so the court now certifies in writing that his appeal is not taken

in good faith. Lacking good faith, Mr. Secrest cannot proceed on his appeal in forma pauperis. 28 U.S.C. § 1915(a)(3).

For similar reasons, Mr. Secrest's request for transcripts at public expense must also be denied. For Mr. Secrest to obtain transcripts of his criminal case at public expense, he must have been granted in forma pauperis status, and this court must certify "the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal." 28 U.S.C. § 753(f). Mr. Secrest hasn't been granted leave to proceed in forma pauperis (quite the contrary), his appeal is frivolous, and transcripts are not needed to decide the issues he presents on appeal.

Accordingly, Mr. Secrest's motion to have transcripts provided for him at public expense [docket no. 82] is DENIED; and his motion for leave to proceed in forma pauperis [docket no. 83] is DENIED.

SO ORDERED.

ENTERED: April 18, 2005

/s/ Robert L. Miller, Jr.  
Chief Judge  
United States District Court

cc: J. Secrest  
K. Hays